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EXAMINER

BARTLEY, KENNETH

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/066,300	<b>Applicant(s)</b> OPSAHL-ONG ET AL.	
	<b>Examiner</b> Kenneth L. Bartley	<b>Art Unit</b> 3693	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7-10, 12-14 and 16-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-10, 12-14, 16-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

1. Receipt of Applicant's amendment and response filed on October 31, 2007 is acknowledged.

### *Response to Amendment*

2. Claims 1, 16, and 19 are currently amended. Claims 6, 11, 15, and 20 have been canceled. Claims 1-5, 7-10, 12-14, and 16-19 are pending in the application and are provided to be examined upon their merits.

### *Response to Arguments*

3. Applicant's arguments filed October 31, 2007 have been fully considered but they are not persuasive. Examiner provides reasons below.

**The Examiner notes that claims 1-5, 7-14, and 16-19 were rejected in the previous Office Action dated August 3, 2007 under 35 U.S.C. 103(a) using prior art U.S. Patent No. 6,823,319 to Lynch et al. in view of 2002/0082903 to Yasuzawa and in further view of Official Notice.**

4. **Applicant reviews amended claim 1, beginning on page 7:**

Applicant respectfully notes that claims 1, 16, and 19 are currently amended. In particular, claim 1 is amended to state, in relevant part, a method of generating return targets for potential real estate deals, including determining a collateral type associated with a potential real estate deal; receiving supplemental deal information associated with the potential real estate deal; automatically generating a base return target for the potential real estate deal based on the collateral type and the supplemental deal information, the return target being at least one of: (i) a return on investment value, (ii) a net income value, (iii) an internal rate of return value, and (iv) a loan spread value; identifying a risk mitigant associated with the potential real estate deal, the risk mitigant being based on the collateral information; identifying a risk adder associated with the

potential real estate deal, the risk adder being based on the collateral information; and determining a return target by adjusting the generated base return target in accordance with the identified risk mitigant and risk adder. Claims 16 and 19 are worded similar to claim 1.

**5. Applicant points out elements of claim of particular relevance, top of page 8:**

Of particular relevance regarding the claims are the claimed aspects of:

- automatically generating a base return target for the potential real estate deal based on the collateral type and the supplemental deal information, the return target being at least one of: (i) a return on investment value, (ii) a net income value, (iii) an internal rate of return value, and (iv) a loan spread value;
- identifying a risk mitigant associated with the potential real estate deal based on the supplemental deal information;
- identifying a risk adder associated with the potential real estate deal based on the supplemental deal information; and
- determining a return target for the potential real estate deal by adjusting the generated base return target in accordance with the identified risk mitigant and risk adder.

Thus, it is clear that Applicant claims a method including generating a base return target based on certain specific criteria, identifying a risk mitigant, identifying a risk adder, determining a return target based on the identified risk mitigate and risk adder. That is, the base return target and the return target are distinct from each other and based on different criteria.

**The Examiner points out that claim 19 failed to include an amendment for a base return target.**

**6. Applicant argues Lynch, beginning on page 8 last paragraph:**

Applicant respectfully submits that it is not seen where the cited and relied upon Lynch discloses or suggests both the claimed "base return target" and the "return target". For example, in reference to the previous claim 1 1 (canceled but with similar aspects now incorporated into claims 1, 16, and 19 by current amendments) the Office Action cites and relies upon Lynch's disclosure regarding repairing or compensating one or more options of product offerings in order to accommodate the user's preferences of an option. That is, Lynch's options may be modified to compensate for preferences of the user.

In contrast to Lynch, Applicant's claims relate to a generated base return target that is

adjusted according to a risk mitigant and risk adder based on the supplemental deal information to determine a return target, not a user preference. Stated another way, Lynch disclose and relates to fitting an option (i.e., a product offering) to a set of user preferences for a deal. In contrast, Applicant claims a method for generating a return target for a potential real estate deal considering various data such as collateral type, supplemental deal information, risk mitigants, and risk adders. The claimed risk mitigant and risk adder are not the same as the lynch disclosed user preferences.

**Applicant is arguing that their system provides a base return and supplemental risk mitigant/adders to adjust the return. Applicant is arguing that Lynch teaches offering different products based on risk factors. The Examiner, however notes that it is very common (as well as old and well known) for large corporations to set ROI, IRR, NPV, etc return targets for potential deals and to adjust such deals based on different risk scenarios. The only thing Lynch is doing different is instead of merely keeping the price analysis to themselves, they are taking the next step to offer the customer the option of paying more to compensate Lynch for risk. This is something else large companies do with their analysis. In further searching, the Examiner includes two articles and a web site on financial analysis with respect to Real Estate. These are by Sinderman (Martin Sinderman, "Whatever you do, there's a software for you," Jan. 1998, National Real Estate Investor, 40, 1, pp. 56-64) and Mayfield (Lisa Mayfield, "Financial analysis software takes one giant leap," Aug. 2000, National Real Estate Investor, 42, 9, pp. 70-74). Also, even though the Examiner has not changed the prior art, a 2000 web site ([www.dyansoftware.com](http://www.dyansoftware.com) using the Wayback machine) was found to include many of Applicant's claimed features, such as an integrated software system with sensitivity analysis for different collateral types and calculating various returns.**

**Also, Lynch teaches:**

**"Once the deal structuring record has been completed, exclusionary rules can be iteratively applied 332 to the deal structuring record to determine whether the offering of a product to the customer should be excluded based on the contents of the record. The exclusionary rules are discussed hereinabove, and can include exclusions based on the location of the potential collateral, or the credit history of the borrower, for example." (col. 8, lines 61-67 and col. 9, line 1)**

**Applicant's risk mitigants/adders are defined as:**

**"Examples of risk mitigants may include: an internal risk rating below a pre-determined threshold, a DSCR above a pre-determined threshold, lockbox information, sweep trigger information, rate cap information, and/or customer tier information. The deal controller**

400 might, for example, decrease the base return target in accordance with the risk mitigants (e.g., a good customer tier rating may deduct 25 basis points from a required loan spread)." ¶ [0045]

"Examples of risk adders may include: a risk rating above a pre-determined threshold, earn-out information, subordinated debt information, interest reserve information, a renovation risk (e.g., associated with a multifamily property), a ground lease length, and/or an indication that a portfolio is cross-collateralized." ¶[0046]

Lynch teaches risk adders/mitigants, for example, risk rating above a pre-determined threshold:

"Compensating factors may be applied under three conditions: the product amount is greater than the maximum allowable product amount and less than or equal to the marginal amounts over the standard maximum; the LTV is greater than the maximum LTV and less than or equal to the marginal amounts over the standard maximum LTV; and/or the DTI is greater than the maximum DTI and less than or equal to the marginal amounts over the standard maximum DTI." (col. 10, lines 47-55)

"The incremental price, expressed in basis points added to the interest rate of the preferred mortgage loan option, is calculated based, in part, on the risk factors for the documentation type, the property type, the mortgage loan amount, the lien factors, the occupancy type, the credit grade, and the compensating factors, for example. The risk factors are then generated from an MSS look-up table that associates a risk with each documentation type, property type, mortgage loan amount, lien factor, occupancy type, credit grade, and compensating factor, for example." (col. 10, lines 65-67 and col. 11, lines 1-7)

7. Applicant continues on page 9, 2<sup>nd</sup> paragraph:

Furthermore, Applicant's claims are based on a "collateral type". As stated in the Specification, the collateral type is a reference to type of collateral backing the real estate deal such as, for example, commercial, residential, etc. In contrast to this specifically claimed aspect, the Office Action merely cites and relies upon "collateral offered by the customer" (See FOA, page 7). Applicant respectfully submits that the disclosure of collateral offered by the customer appears to refer to an amount or value of collateral (i.e., dollar value) as opposed to the claimed collateral type. As made clear by Applicant's disclosure, the collateral type is important to the claimed invention, not merely a collateral amount since the collateral amount may convey more than a mere valuation of property in dollar terms.

**The Examiner notes that Lynch teaches:**

**"The deal structuring record is contained in a database 106 to allow access to the data by the DSS system 100, including access for CSRs or UWs who require access to the data to evaluate product offerings. Forming the record also generates standardized parameters for the deal structuring, such as maximum allowable loan-to-value (LTV) and debt-to-income (DTI) ratios. The combined preferred parameters, potential collateral data, customer suitability information, credit history, and collateral appraisal information can then be joined to form an deal structuring record." (col. 8, lines 51-60)**

**Therefore, it would be inherent for collateral data as well as collateral appraisal information to include collateral type.**

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

10. Claims 1-5, 7-14, and 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,823,319 to Lynch et al., in view of U.S. Pub. No. 2002/0082903 A1 to Yasuzawa and in further view of Official Notice.

Regarding claim 1:

(Currently Amended) A method of generating return targets for potential real estate deals, comprising:

**Lynch et al. discloses:**

**A deal processing system that can be used for real estate deals...**

**"The automated process of deal structuring benefits the potential borrower by providing the ability to easily explore different deal scenarios, as well as greatly reducing the amount of time required to obtain approval of a mortgage loan." (col. 2, lines 25-29);**

determining a collateral type associated with a potential real estate deal;

**Where the deal processing includes...**

**"...prompting the customer for information relating to the customer, such as collateral offered by the customer..." (col. 1, lines 61-63);**

receiving supplemental deal information associated with the potential real estate deal;  
**With the ability to receive supplemental deal information associated with the real estate deal...**

**"...accessing in real-time information relating to the credit history of the customer..." (col. 1, lines 63-64), where supplemental deal information has been defined in Applicant's specification as not collateral or loan-to-value information.**

automatically generating a base return target for the potential real estate deal based on the collateral type and the supplemental deal information, the return target being at least one of: (i) a return on investment value, (ii) a net income value, (iii) an internal rate of return value, and (iv) a loan spread value.

**Provides the ability to evaluate deals using "exclusionary rules"...**

**"The MSS 108, resident on the DSS 100, preferably includes rules 210, and modules 220. One example of MSS rules 210 is own products exclusionary rules and third party, such as independent investors, exclusionary rules, for application to the information entered by a customer in a deal structuring." (col. 5, lines 1-7) The DSS is the "Deal Structure System" and the MSS is the "Mortgage System Software." Also, "The application of the exclusionary rules may be accomplished by numerous other methods, which methods will be apparent to those skilled in the art." (col. 9, lines 19-21)**



identifying a risk mitigant associated with the potential real estate deal based on the supplemental deal information;

**"A preferred loan option is generated 336 by selecting from the offeror's available product types those products whose rules are satisfied by the elements stored in the deal structuring record." (col. 9, lines 55-58)**

identifying a risk adder associated with the potential real estate deal based on the supplemental deal information; and

**"Other factors which might disqualify options might include credit grades differing from the allowable range for the option, differing input documentation level from that allowable for the option, and/or differing lien positions from those allowable for the option, for example." (col. 9, lines 8-13)**

determining a return target for the potential real estate deal by adjusting the generated base return target in accordance with the identified risk mitigant and risk adder.

**"If no preferred options are identified following this procedure, pricing and/or risk rules, such as compensating rules 330 and/or repair rules 332, can be applied to attempt to gain an option that is acceptable to the offeror or offerors." (col. 10, lines 26-29)**

**While Lynch et al., in the business of real estate systems, considers returns from rental income, they do not disclose return targets, such as internal rate of return.**

**Yasuzawa, in the field of real estate systems and return analysis, discloses:**

**"For the purpose, the benchmark is required when investors makes investment judgment. Benchmark in real estate investment is Real Estate Index that shows a return of the investment including income and capital gain." ¶ [0041]**

**"Because, on the occasion of actual dealings, the investor analyzes return and make investment by the price based on the return." ¶ [0049]**

**"It is desirable that the aforesaid matrix evaluation (assessment) includes the DCF method, and that the aforesaid yield is presented together with the deduction rate used by the DCF method, the terminal rate, and one or more yields selected from a set consisting of yields calculated from profitable prices obtained by the DCF method (called IRR or internal rate of return)." ¶ [0103]**

**Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to provide a return target based on an internal rate of return, motivated by Yasuzawa, and that the analysis would aid the investor in making educated investment decisions based on capital expenditures, such as for rental property.**

**Also, while the references as combined above disclose an internal rate of return, they do not provide details regarding other tools for financial analysis of capital expenditures. However, the Examiner takes Official Notice that using various financial tools to analyze returns on investments, such as return on investment (ROI), net income, and loan spread analysis is old and well known. Therefore, it would have been obvious to one skilled in the art at the time of invention to determine investment returns using financial analysis techniques, and that such techniques would be useful to determine desired investment returns.**

Regarding claim 2:

(Original) The method of claim 1, wherein the potential real estate deal comprises one of: (i) a debt deal, and (ii) an equity deal.

**Lynch et al. discloses:**

**The deal can involve a mortgage, which is a debt deal (col. 2, lines 25-26).**

Regarding claim 3:

(Original) The method of claim 1, wherein the potential real estate deal comprise a debt deal, said determining further comprises determining loan-to-value information associated with the potential real estate deal, and said generating is further based on the loan-to-value information.

**Lynch et al. discloses:**

**"Forming the record also generates standardized parameters for the deal structuring, such as maximum allowable loan-to-value (LTV) and debt-to-income (DTI) ratios. The combined preferred parameters, potential collateral data, customer suitability information, credit history, and collateral appraisal information can then be joined to form an deal structuring record." (col. 8, lines 54-60)**

Regarding claim 4:

(Original) The method of claim 1, wherein the potential real estate deal is associated with at least one of: (i) a commercial real estate property, (ii) a commercial real estate portfolio, (iii) a loan, (iv) a mortgage, (v) a commercial mortgage backed security, (vi) a leveraged equity deal, (vii) a full equity purchase, and (viii) an adjustment to an existing real estate deal.

**Lynch et al. discloses:**

**A potential deal can be associated with a mortgage, where...“The automated process of deal structuring benefits the potential borrower by providing the ability to easily explore different deal scenarios, as well as greatly reducing the amount of time required to obtain approval of a mortgage loan.” (col. 2, lines 25-29).**

Regarding claim 5:

(Original) The method of claim 1, wherein the supplemental deal information comprises at least one of: (i) a risk characteristic, (ii) deal size information, (iii) deal term information, (iv) a number of properties, (v) collateral quality information, (vi) a risk rating, (vii) lockbox information, (viii) sweep trigger information, (ix) rate cap information, (x) customer information, (xi) earn-out information, (xii) subordinated debt information, (xiii) interest reserve information, (xiv) renovation information, (xv) ground lease information, (xvi) portfolio cross-collateralization information, (xvii) credit tenant information, (xviii) annual rollover information, (xix) leverage information, (xx) development deal information, and (xi) partnership structure information.

Lynch et al. discloses:

**“...applying a plurality of origination rules, such as exclusionary rules, pricing rules, risk rules, and edit preference rules, to the at least one deal parameter and the information relating to the customer...” (col. 1, lines 64-67)**

Regarding claim 7:

(Original) The method of claim 1, wherein said generating is performed via a rule-based system.

Lynch et al. discloses:

**A rule based system (Fig. 2, ref. 210).**

Regarding claim 8:

(Original) The method of claim 7, further comprising:  
creating the rule-based system in accordance with a statistical analysis of prior real estate deal information.

Lynch et al. discloses:

**“...a knowledge base is a collection of rules that represent the human expertise of a particular knowledge domain. Rules are typically constructed in an IF-THEN-ELSE format, e.g., IF Property Type=High Rise AND State=NY THEN Proceed ELSE Flag For Review. The knowledge base is typically stored in a storage medium of a computer.” (col. 3, lines 10-16)**

**“An expert system operates by running a knowledge base through an inference engine and applying all of the rules to the input data for a given problem.” (col. 3, lines 18-21)**

**Therefore, it would be inherent for a “collection of rules that represent the human expertise of a particular knowledge domain” to include prior real estate deal information, and that such information could include credit risk history of individuals (col. 1, lines 63-64).**

Regarding claim 9:

(Original) The method of claim 8, wherein said creating comprises: creating the rule-based system in accordance with at least one of: (i) risk characteristics and approved return values for a plurality of prior real estate deals, and (ii) expert information.

**Lynch et al. discloses:**

**“In addition, the illustrated DSS system 100 may include at least one third party interface, for third parties such as credit bureaus and third party loan offerors.” (col. 4, lines 57-58)**

Regarding claim 10:

(Original) The method of claim 7, further comprising: validating the rule-based system with additional prior real estate deal information.

**Lynch et al. discloses:**

**“One example of MSS rules 210 is own products exclusionary rules and third party, such as independent investors, exclusionary rules, for application to the information entered by a customer in a deal structuring.” (col. 5, lines 3-7). Therefore, third parties can bring their own rules which would inherently include prior real estate deal information that could validate their analysis.**

Regarding claim 12:

(Original) The method of claim 1, further comprising: transmitting an indication of the return target to a deal originator device via a communication network.

**Lynch et al. discloses:**

**A networked communication system (Fig. 1):**

**“The computer 102 also has several interchanges, such as interfaces, for communicating with other entities. These interfaces include an internet interface 112 for communicating with customers 114 accessing the DSS 100.” (col. 4, lines 40-43)**

Regarding claim 13:

(Original) The method of claim 12, wherein the deal originator device comprises at least one of: (i) a personal computer, (ii) a portable computing device, and (iii) a telephone device.

**Lynch et al. discloses:**

**“The network computers 118 can be located in a facility operated in conjunction with DSS 100, such that loan customers can access the system without having Internet access. The system also has a telephone interface 120, such that customers can dial into the system to access DSS 100.” (col. 4, lines 45-53)**

Regarding claim 14:

(Original) The method of claim 12, wherein the communication network comprises at least one of: (i) the Internet, (ii) an intranet, (iii) a public network, (iv) a public switched telephone network, (v) a proprietary network, (vi) a wireless network, and (vii) a local area network.

**Lynch et al. discloses:**

**Use of an internet (col. 4, lines 40-43).**

Regarding claim 16:

(Currently Amended) A deal controller, comprising:  
a processor; and

**Lynch et al. discloses:**

**A “Deal Structuring System” (Fig. 1, ref. 100) with a processor (Fig. 1, ref. 104);**

a storage device in communication with said processor and storing instructions adapted to be executed by said processor to:

**a database (Fig. 1, ref. 110) in communication with a processor, that has memory to store the “Mortgage System Software” (col. 4, lines 27-32);**

determine a collateral type associated with a potential real estate deal,

**“The combined preferred parameters, potential collateral data, customer suitability information, credit history, and collateral appraisal information can then be joined to form an deal structuring record. Once the deal structuring record has been completed, exclusionary rules can be iteratively applied 332 to the deal structuring record to determine whether the offering of a product to the customer should be excluded based on the contents of the record.” (col. 8, lines 57-65)**

receive supplemental deal information associated with the potential real estate deal,

**“The exclusionary rules are discussed hereinabove, and can include exclusions based on... the credit history of the borrower, for example” (col. 8, lines 65-67 and col. 9, line 1), where supplemental deal information has been defined in Applicant’s specification as not collateral or loan-to-value information.**

automatically generate a base return target for the potential real estate deal based on the collateral type and the supplemental deal information, the return target being at least one of: (i) a return on investment value, (ii) a net income value, (iii) an internal rate of return value, and (iv) a loan spread value.

**And provides the ability to evaluate deals using “exclusionary rules”...**

**“The MSS 108, resident on the DSS 100, preferably includes rules 210, and modules 220. One example of MSS rules 210 is own products exclusionary rules and third party, such as independent investors, exclusionary rules, for application to the information entered by a customer in a deal structuring.” (col. 5, lines 1-7) The DSS is the “Deal Structure System” and the MSS is the “Mortgage System Software.” Also, “The application of the exclusionary rules may be accomplished by numerous other methods, which methods will be apparent to those skilled in the art.” (col. 9, lines 19-21)**

identify a risk mitigant associated with the potential real estate deal based on the supplemental deal information;

**“A preferred loan option is generated 336 by selecting from the offeror’s available product types those products whose rules are satisfied by the elements stored in the deal structuring record.” (col. 9, lines 55-58)**

identify a risk adder associated with the potential real estate deal based on the supplemental deal information; and

**“Other factors which might disqualify options might include credit grades differing from the allowable range for the option, differing input documentation level from that allowable for the option, and/or differing lien positions from those allowable for the option, for example.” (col. 9, lines 8-13)**

determine a return target for the potential real estate deal by adjusting the generated base return target in accordance with the identified risk mitigant and risk adder.

**“If no preferred options are identified following this procedure, pricing and/or risk rules, such as compensating rules 330 and/or repair rules 332, can be applied to attempt to gain an option that is acceptable to the offeror or offerors.” (col. 10, lines 26-29)**

**While Lynch et al. discloses a real estate system and considers returns from rental income, for example, they do not disclose a return targets, such as internal rate of return.**

**Yasuzawa, in the field of real estate systems and return analysis, discloses:**

**“For the purpose, the benchmark is required when investors makes investment judgment. Benchmark in real estate investment is Real**

**Estate Index that shows a return of the investment including income and capital gain.” ¶ [0041]**

**“Because, on the occasion of actual dealings, the investor analyzes return and make investment by the price based on the return.” ¶ [0049]**

**“It is desirable that the aforesaid matrix evaluation (assessment) includes the DCF method, and that the aforesaid yield is presented together with the deduction rate used by the DCF method, the terminal rate, and one or more yields selected from a set consisting of yields calculated from profitable prices obtained by the DCF method (called IRR or internal rate of return).” ¶ [0103]**

**Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to provide a return target based on internal rate of return, motivated by Yasuzawa, and that analysis would apply financial principals for making investment decisions based n capital expenditures, such as for rental property.**

**Also, while the references as combined above disclose an internal rate of return, they do not provide details regarding other tools for financial analysis of capital expenditures. However, the Examiner takes Official Notice that using various financial tools to analyze returns on investments, such as return on investment (ROI), net income, and loan spread analysis is old and well known. Therefore, it would have been obvious to one skilled in the art at the time of invention to determine investment returns using financial analysis techniques, and that such techniques would be useful to determine desired investment returns.**

Regarding claim 17:

**(Original) The deal controller of claim 16, wherein said storage device further stores at least one of: (i) a prior deal database, and (ii) a potential deal database.**

**Lynch et al. discloses:**

**A deal processing system that can be used for real estate deals...**

**“The automated process of deal structuring benefits the potential borrower by providing the ability to easily explore different deal scenarios, as well as greatly reducing the amount of time required to obtain approval of a mortgage loan.” (col. 2. lines 25-29).**

**“The memory is also used to store data regarding each deal structuring. This information can be stored in a database 110 within the memory 106.” (col. 4, lines 35-37)**

**Therefore, the deal processing system is able to perform analysis on "potential deals," where the deal structuring information can be stored on a database.**

Regarding claim 18:

(Original) The deal controller of claim 16, wherein said processor is further coupled to a communication device adapted to communicate with at least one of: (i) a deal originator device, and (ii) another deal controller.

**Lynch et al. discloses:**

**"The computer 102 also has several interchanges, such as interfaces, for communicating with other entities. These interfaces include an internet interface 112 for communicating with customers 114 accessing the DSS 100. (col. 4, lines 40-43). Therefore, the processor is coupled to a communication device to communicate with a deal originator device (Fig. 1, ref. 104 and 114).**

Regarding claim 19

(Currently Amended) A medium storing instructions adapted to be executed by a processor to perform a method of generating return targets for potential real estate deals, said method comprising:

**Lynch et al. discloses:**

**"Alternatively, MSS 108 may be stored on a removable computer readable medium, such as a CD-ROM (not shown)." (col. 4, lines 32-34)**

determining a collateral type associated with a potential real estate deal;

**"The combined preferred parameters, potential collateral data, customer suitability information, credit history, and collateral appraisal information can then be joined to form an deal structuring record. Once the deal structuring record has been completed, exclusionary rules can be iteratively applied 332 to the deal structuring record to determine whether the offering of a product to the customer should be excluded based on the contents of the record." (col. 8, lines 57-65)**

receiving supplemental deal information associated with the potential real estate deal;

**"The exclusionary rules are discussed hereinabove, and can include exclusions based on... the credit history of the borrower, for example." (col. 8, lines 65-67 and col. 9, line 1), where supplemental deal information has been defined in Applicant's specification as not collateral or loan-to-value information.**



automatically generating a return target for the potential real estate deal based on the collateral type and the supplemental deal information, the return target being at least one of: (i) a return on investment value, (ii) a net income value, (iii) an internal rate of return value, and (iv) a loan spread value.

**Provides the ability to evaluate deals using “exclusionary rules”...**

**“The MSS 108, resident on the DSS 100, preferably includes rules 210, and modules 220. One example of MSS rules 210 is own products exclusionary rules and third party, such as independent investors, exclusionary rules, for application to the information entered by a customer in a deal structuring.” (col. 5, lines 1-7) The DSS is the “Deal Structure System” and the MSS is the “Mortgage System Software.” Also, “The application of the exclusionary rules may be accomplished by numerous other methods, which methods will be apparent to those skilled in the art.” (col. 9, lines 19-21)**

identifying a risk mitigant associated with the potential real estate deal based on the supplemental deal information;

**“A preferred loan option is generated 336 by selecting from the offeror's available product types those products whose rules are satisfied by the elements stored in the deal structuring record.” (col. 9, lines 55-58)**

identifying a risk adder associated with the potential real estate deal based on the supplemental deal information; and

**“Other factors which might disqualify options might include credit grades differing from the allowable range for the option, differing input documentation level from that allowable for the option, and/or differing lien positions from those allowable for the option, for example.” (col. 9, lines 8-13)**

determining a return target for the potential real estate deal by adjusting the generated base return target in accordance with the identified risk mitigant and risk.

**“If no preferred options are identified following this procedure, pricing and/or risk rules, such as compensating rules 330 and/or repair rules 332, can be applied to attempt to gain an option that is acceptable to the offeror or offerors.” (col. 10, lines 26-29)**

**While Lynch et al. discloses a real estate system and considers returns from rental income, for example, they do not disclose a return targets, such as internal rate of return.**

**Yasuzawa, in the field of real estate systems and return analysis, discloses:**

**“For the purpose, the benchmark is required when investors makes investment judgment. Benchmark in real estate investment is Real**

**Estate Index that shows a return of the investment including income and capital gain.” ¶ [0041]**

**“Because, on the occasion of actual dealings, the investor analyzes return and make investment by the price based on the return.” ¶ [0049]**

**“It is desirable that the aforesaid matrix evaluation (assessment) includes the DCF method, and that the aforesaid yield is presented together with the deduction rate used by the DCF method, the terminal rate, and one or more yields selected from a set consisting of yields calculated from profitable prices obtained by the DCF method (called IRR or internal rate of return).” ¶ [0103]**

**Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to provide a return target based on internal rate of return, motivated by Yasuzawa, and that analysis would apply financial principals for making investment decisions based on capital expenditures, such as for rental property.**

**Also, while the references as combined above disclose an internal rate of return, they do not provide details regarding other tools for financial analysis of capital expenditures. However, the Examiner takes Official Notice that using various financial tools to analyze returns on investments, such as return on investment (ROI), net income, and loan spread analysis is old and well known. Therefore, it would have been obvious to one skilled in the art at the time of invention to determine investment returns using financial analysis techniques, and that such techniques would be useful to determine desired investment returns.**

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth L. Bartley whose telephone number is (571) 272-5230. The examiner can normally be reached on Monday through Friday, 8:00 - 5:00 EST.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jagdish Patel can be reached on (571) 272-6748. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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